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PRE-APPEAL BRIEF REQUEST FOR REVIEW <i>forwarded to the PTO</i>		Docket Number (Optional) HOP-1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>10-30-2006</u> Signature <u>Leigh P. Gregory</u> Typed or printed name <u>Leigh P. Gregory</u>		Application Number 10/728,321	Filed 12-04-03
		First Named Inventor Hopkins	
		Art Unit 1774	Examiner Ferguson
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		<u>Leigh P. Gregory</u> Signature <u>Leigh P. Gregory</u> Typed or printed name <u>33,241</u> Registration number <u>757-642-6039</u> Telephone number <u>10-30-06</u> Date	
<input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>33,241</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Request for Pre-Appeal Review dated 10/30/06

REASONS FOR PRE-APPEAL REVIEW REQUEST

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The present request is filed because the Applicant believes that the Examiner, who has been diligent and accessible in the prosecution of the present application, has a fundamental misunderstanding of one of the structural elements of the present claims. It is the Applicant's sincere hope that a lengthy appeal can be avoided by the clarification of this one factual issue.

In addition to other limitations, each of the presently pending independent claims is directed to an oriented thermoplastic composite for use as a register or receipt tape which is based on an essentially non-heat shrinkable film having a heat sensitive, thermal image coating on one of the film's surfaces. From a reading of the Final Action of June 28, 2006 and the Advisory Action of October 12, 2006, it is clear that the Examiner is confusing the "heat sensitive, thermal image coating" with conventional surface treatment to improve printability of a film, presumably a treatment which also improves heat resistance.

Applicant acknowledges that surface treatments to improve the printability of a film, such as those disclosed in the single reference patent, Davis et al., are well known in the art. Applicant further acknowledges that a variety of treatments or processing steps are known which improve a film's heat resistance or other heat-related properties. However, these treatments are in no way relevant to the presently claimed heat sensitive, thermal image coating. As was noted in the Response After Final of August 30, 2006, the specific heat sensitive thermal image coating mentioned in the specification, Protecoat 8468, supplied by NuCoat, Inc., Plymouth, MN, is defined on the supplier's

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website to be a formulation containing heat-sensitive capsules that develop on contact with a high temperature transfer system such as the printhead of a direct thermal printer. The printer referenced in Example 1 of the present specification, the NCR Point of Sale Printer, Class 7193, Model 3205-9001, is such a direct thermal printer.

If one were to run the film of the reference patent, Davis et al., through a thermal printer *nothing would happen*. Despite all of the treatments to improve printability, the film would be blank. This is because a thermal printer prints, not by jetting ink onto a substrate nor by lasing an image onto a substrate, but by developing the heat sensitive microparticulates contained in the heat sensitive, thermal image coating that is on the surface of the substrate, be it paper or film.

It is thus the Applicant's position that the Davis et al. reference is directed to a conventional, printable film and neither discloses nor renders obvious a heat sensitive, thermal image coating. Accordingly, it is requested that the Pre-Appeal Review Panel find the present claims to be in condition for allowance. Alternatively, it is requested that the Panel reopen prosecution on the merits.